R E M A R K S

Claims 1-4, 7-16 and 18-20 are currently pending in the instant application.

Claim Amendments

While the applicants disagree with the basis for certain rejections made in the Official Action, claim 20 is nonetheless cancelled and claims 1, 3-4, 7-15 and 18-19 are amended to expedite prosecution. No new matter has been added due to these amendments and support for these amendments can be found throughout the applicant's specification and figures.

Claim Rejections under 35 U.S.C. §101

Claims 14-16, 18-19 and 20 stand rejected under 35 U.S.C. §101 as being "not limited to the four statutory categories of inventions."

Without conceding the merits of these rejections, the applicants cancel claim 20 and amends claim 14 to include the element of a processor configured to execute machine-readable computer program code and claim 19 to include the element of computer-readable storage medium. Accordingly, amended claim 14 and claim 19 are now clearly directed to at least one of the four statutory categories of inventions and are thus patentable under 35 U.S.C. §101. The applicants respectfully request that these rejections be withdrawn in light of the above discussion.

Claim Rejections under 35 U.S.C. §102(b)

Claims 1-4, 7-16 and 18-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 7,263,632 to Ritz et al. (hereinafter "Ritz"). The applicant respectfully disagrees with these rejections and request favorable reconsideration in light of the discussion hereinafter.

Regarding independent claim 1, the applicant points out that this claim is amended to include the elements of dynamically identifying an application exception generated by the software application prior to the application exception being logged, obtaining exception data responsive to the exception event and examining the exception

data prior to the application exception being logged. Ritz clearly does not disclose these elements.

As a summary, application exception concept is typically integrated into the application language (i.e. .NET, Java). When an exception situation happens application code throw exception. An application developer can write code that identifies that an exception occurred and writes information about that exception to an event log. In such scenarios only exception for which a developer wrote exception logging code, *as defined by the developer*, will be available in the event log and only information that is logged by this code will be assessable to a management system. If the developer chooses not to integrate exception functionality into his code, then when an exception situation occurs, *as defined by the application language*, the software application simply terminates without logging the exception and without resolving the issue. In Ritz, the application events are not dynamically determined, but rather they are predefined by the application developers and are thus integrated into the application software. When a predefined application event occurs and is recognized, Ritz logs the application exception into an event log. The exceptions logged into the event log and are then processed in a predefined manner. As clearly disclosed, since Ritz relies on data in an event log, Ritz cannot dynamically detect application exceptions that are not explicitly logged by application code and cannot dynamically adjust information collected about exception. For example, the applicant directs the attention of the Office to the Abstract of Ritz which recites in part,

> Programmatically diagnosing the root cause of a problem in a computing system. Events are monitored within an operating system, and *at least a subset of the events are logged to a log file*.......The *diagnostics module queries the log file to correlate events relevant to diagnosis of the problem*, and *identifies the root cause by evaluating the results of the query*. Once the root cause of the problem is diagnosed, a resolution module corresponding to that root cause may be invoked *to programmatically resolve the problem*.....

This is completely different from the applicant's invention which addresses a different issue. Ritz does not address the problem where a software exception event is

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not anticipated by the application developer and is thus not integrated into the software application as a *predefined application event*. In this situation, the exception event would be unrecognized and no action would be taken. Accordingly, it is clear that Ritz does not and can not dynamically detect an exception event.

Moreover, Ritz does not identify or distinguish between critical exceptions and other exceptions, determine the type of critical exception and process the critical exception responsive to the type of critical exception. In rejecting this claim, the Office directs the applicant's attention to the Abstract of Ritz as support for their assertion that Ritz discloses these elements. However, the Abstract of Ritz makes no mention or suggestion of identifying the type of exception, determining the type of critical exception, and processing the exception based on its type. Rather, Ritz merely looks at the predefined exception in the log to determine what predefined action caused the generation of the exception (based on a predefined exception event list) and tries to resolve the exception based on a predefined action. Ritz not only makes no distinction of whether the exception is a non-critical exception or a critical exception, but Ritz clearly makes no distinction, mention, suggestion or teaching of critical events as opposed to non-critical events.

In light of the above discussion, it is clear that Ritz does not disclose or teach each and every element of applicant's amended independent claim 1. Accordingly, for at least the foregoing reasons, applicants respectfully submit that amended independent claim 1 patentably defines over Ritz. And as similar patentable elements of the subject matter of amended independent claim 1 is recited in amended independent claims 14 and 19, applicants respectfully submit that amended independent claims 14 and 19 also patentably define over Ritz for at least the same reasons as amended independent claim 1. Additionally, as claims 2-4 and 7-13 depend from amended independent claim 1 and claims 15-16 and 18 depend from amended independent claim 14, they too patentably define over Ritz for at least the same reasons.

Nevertheless, the applicant wishes to point out the following additional reasons why certain dependent claims are not anticipated and are thus patentably distinguishable over Ritz.

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Regarding claims 3, 4, 8-12, 15 and 18, as discussed hereinabove Ritz clearly makes no mention or reference to distinquishing between primary and derived events and critical and non-critical events, let alone identifying and distinguishing between primary and derived critical events. Again, the Office directs the applicant's attention to the Abstract of Ritz as support for their rejection and asserts that "[I]t is understood that a new event logged would be a primary critical exception" and "[I]f a similar log exists, it would be a derived critical exception event." The applicants assert that Ritz makes no such recitation, suggestion or teaching and believes that he Office is reading missing elements into Ritz in direct contradiction to current law. It is well established that missing elements may not be supplied by the knowledge of one skilled in the art or by the disclosure of another reference.[1] Accordingly, claims 3, 4, 8-12, 15 and 18 are clearly not anticipated by Ritz in their own right.
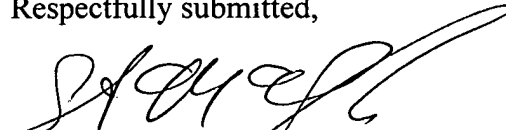
For the foregoing reasons, the applicants respectfully submit that Claims 1-4, 7-16 and 18-20 are not anticipated by and thus are patentably distinguishable over Ritz. Accordingly, favorable reconsideration and withdrawal of these rejections is respectfully requested.

CONCLUSION

The applicant hereby submits a request for a three (3) month extension of time along with the required extension of time fee of $555.00 which the USPTO is authorized to charge to the applicant's attorney's Credit Card as disclosed in the attached form PTO-2038.

For all the foregoing reasons, the applicants respectfully submit that the present application is now in condition for allowance.

Respectfully submitted,

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1 *Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985)*

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